

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J., by her next friend and mother, HEATHER  
JACKSON,

*Plaintiff,*

v.

Civil Action No. 2:21-cv-00316  
Hon. Joseph R. Goodwin, District Judge

WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY BOARD  
OF EDUCATION, WEST VIRGINIA  
SECONDARY SCHOOL ACTIVITIES  
COMMISSION, W. CLAYTON BURCH in his  
official capacity as State Superintendent,  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, and  
THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINEY ARMISTEAD,

*Defendant-Intervenor.*

**DEFENDANT STATE OF WEST VIRGINIA'S**  
**MOTION FOR SUMMARY JUDGMENT**

NOW COMES Defendant, State of West Virginia (the “State”), by counsel, and, respectfully moves this Court for an order under Rule 56 of the Federal Rules of Civil Procedure granting summary judgment, in the State’s favor against the named Plaintiff. As further explained in the attached Memorandum in Support of this Motion the State of West Virginia is entitled to summary judgment because “there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.” *Evans v. Techs. Applications & Serv. Co.*, 80 F.3d 954, 958 (4th Cir. 1996) (citing Fed.R.Civ.P. 56(c)).

This Motion is made on the grounds specified in this Motion and the accompanying Memorandum of Law, the exhibits attached to the Memorandum of Law, all matters of which the Court may take judicial notice, and on such other and further oral or documentary evidence as may be presented to the Court at or before the hearing on this Motion. The State of West Virginia is entitled to summary judgement on both of Plaintiff's causes of action.

Respectfully submitted,

By counsel,  
PATRICK MORRISEY  
*West Virginia Attorney General*

/s/ Curtis R. A. Capehart  
Douglas P. Buffington II (WV Bar # 8157)  
*Chief Deputy Attorney General*  
Curtis R.A. Capehart (WV Bar # 9876)  
*Deputy Attorney General*  
David C. Tryon (WV Bar #14145)  
*Deputy Solicitor General*  
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*Counsel for Plaintiff, STATE OF WEST VIRGINIA*

DATE: April 21, 2022

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FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
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**B. P. J., by her next friend and mother,  
HEATHER JACKSON,  
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**v.**

**CIVIL ACTION NO. 2:21-cv-00316**

**Judge Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY  
BOARD OF EDUCATION, WEST  
VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION,  
W. CLAYTON BURCH, in his official  
Capacity as State Superintendent, DORA  
STUTLER, in her official capacity as  
Harrison County Superintendent, and  
THE STATE OF WEST VIRGINIA  
BOARD OF EDUCATION, et al.,  
Defendants.**

**and LAINEY ARMISTEAD,  
Intervenor Defendant.**

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 21st day of April, I electronically filed the foregoing “Defendant State of West Virginia’s Motion for Summary Judgment” with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart  
Curtis R. A. Capehart